

Attorney Docket No.: 2001P17045US01

REMARKS:

In the Office Action mailed October 19, 2004, the Examiner rejected claims 33-60 under 35 U.S.C. § 101 for double patenting. The Examiner argues that claims 1-32 of U.S. Patent No. 6,680,578 (the "'578 patent") claim the same invention as claims 33-60 of this patent application presently being examined.

In response, the Applicants assert that claims 33-60 of this application do not claim the same invention claimed in claims 1-32. More specifically, each of the independent claims of the '578 patent (i.e., the independent claims of the '578 patent are claims 1, 25, and 30) have the limitation that the light source has a "control line and said control line comprises a fuse"; in contrast, none of the claims of the present application include the limitation of a "fuse". For example, claim 1 of the '578 patent recites that "said driver circuit is electrically connected to a particular one of said segments by a control line and said control line comprises a fuse"; in contrast, none of the claims of the present application include the "fuse" limitation. For the foregoing reasons, the invention claimed in claims 1-32 of the '578 patent is not the same as the invention claimed by claims 33-60 of the present invention. Therefore, the Applicants request that the double patenting rejection be withdrawn.

In addition, the Applicants assert that the Examiner has not established a prima facie case of same-invention double patenting since the Examiner has not shown the necessary literal infringement analysis. According to *In re Vogel*, 422 F.2d 438 (C.C.P.A. 1970), the test for same-invention double patenting is whether one of the claims in the first patent could be literally infringed without literally infringing one of the claims in the other patent. Here, an OLED light source without a "fuse" will not literally infringe the claims of the '578 patent, however, such a light source can literally infringe the claims of the present application. Therefore, the Applicants assert that the Examiner has not established the prima facie case of same-invention double patenting, and thus request that this rejection be withdrawn.

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CONCLUSION:

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request allowance of all pending claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account No. 19-2179 of Siemens Corporation.

Date: Feb. 21, 2005

Respectfully requested,

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